BILL NO. S-83-12-38

SPECIAL ORDINANCE NO. S-278-83

AN ORDINANCE approving a Sewer Agreement between Shar, Inc. - Freeman Street Sanitary Sewer Agreement, and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement between Shar, Inc. - Freeman Street Sanitary Sewer Agreement, and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects. The work under said Agreement requires:

> This is for an agreement between Shar, Inc., Developer, and the City of Fort Wayne for a sewer described as follows:
>
> SANITARY SEWER
> LATERAL # A
> Beginning at an existing sanitary manhole located 60± L.F. East of and 20± L.F. North of the Southeast corner of Lot No. 17 of Rousseau's 2nd Garden Addition, thence Southwesterly 100± L.F. to a proposed manhole located 60± L.F. South of and 10± L.F. West of said Southeast corner of Lot No. 17 of Rousseau's 2nd Garden Addition, thence due South 210± L.F. to a proposed manhole located 10± L.F. west of the 210± L.F. south of said Southeast corner of Lot 17 of Rousseau's 2nd Garden Addition, thence due west 930± L.F. terminating at a proposed manhole;

at a total cost of Thirty-Six Thousand and No/100 Dollars ($36,000.00) - 50-50 share between City and Developer - City share not to exceed Eighteen Thousand and No/100 Dollars ($18,000.00), paid by Economic Development Funds.

SECTION 2. Prior Approval was received from Council with respect to this Agreement on December 6, 1983. Two (2)

copies of the Agreement attached hereto are on file with the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Scruggs, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19___, at _____ o'clock ___.M.,E.S.T.

DATE: 12-13-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by Gia Quinta, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO					

DATE: 12-27-83 Sandra E. Kennedy
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) NO. S-278-83

on the 27th day of December, 19 83.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of December, 19 83, at the hour of 1:00 o'clock P.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 28th day of December 19 83, at the hour of 4 o'clock P.M.,E.S.T.

Win Moses Jr.
WIN MOSES, JR. - MAYOR

A G R E E M E N T
F O R
S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 21st day of November, 1983, by and between SHAR, INC., hereinafter referred to as "DEVELOPER" and the CITY OF FORT WAYNE, INDIANA, an Indiana municipal corporation, hereinafter referred to as "CITY," WITNESSETH:

WHEREAS, the DEVELOPER desires to construct a sanitary sewer described as follows:

SANITARY SEWER

LATERAL #A

Beginning at at existing sanitary manhole located 60± L.F. East of and 20± L.F. North of the Southeast corner of Lot No. 17 of Rousseau's 2nd Garden Addition, thence Southwesterly 100± L.F. to a proposed manhole located 60± L.F. South of and 10± L.F. West of said Southeast corner of Lot No. 17 of Rousseau's 2nd Garden Addition, thence due South 210± L.F. to a proposed manhole located 10± L.F. west of the 210± L.F. south of said Southeast corner of Lot 17 of Rousseau's 2nd Garden Addition, thence due west 930± L.F. terminating at a proposed manhole.

Said sewer to be 12" in size in accordance with plans, specifications and profiles hereinafter submitted to the CITY, now on file in the office of the Chief Water Pollution Control Engineer of the City Utilities of the CITY and titled as SHAR, INC. - FREEMAN STREET SANITARY SEWER, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the DEVELOPER has an interest, but also adjoining land areas and hereinafter referred to as "Sewer."

WHEREAS, the total cost of construction including engineering and inspection costs of said sewer is represented to be $36,000.00,

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The DEVELOPER shall cause said Sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the CITY, under private contract to let within sixty (60) days after required CITYapproval. All work and materials shall be subject to inspection by and the right of the CITY to halt construction if there shall be noncompliance therein. Said sewer shall not be deemed permanently connected into the Sewer system of the CITY until all inspections are paid in full by the Developer and the final acceptance is issued by the CITY. Upon completion, said Sewer shall become the property of the CITY and CITY shall accept sewage therefrom, subject to such sewage charges as may now or hereinafter be regularly established by the CITY, and all further maintenance shall be borne by the CITY.

2. COST OF CONSTRUCTION

The total cost of construction shall be divided as follows:

The total construction cost including engineering services shall be equally (50-50) shared by the DEVELOPER and the CITY.

The DEVELOPER agrees to pay initially the entire cost and expense of construction of said sewer, in cash, and to hold the CITY harmless from any liability for claims connected therewith. It is understood that as his part of this agreement the DEVELOPER will have provided a minimum of a 20 foot permanent easement centerline over the proposed sanitary sewer described. Further a 20 foot easement will be provided adjacent to the I & M easement from the proposed sanitary sewer south to DEVELOPER'S south property line.

3. AREA OF DEVELOPER

Said sewer, when accepted by the CITY, will initially serve the following described estate of the DEVELOPER, Reference Exhibit "A"

That part of the Northwest Quarter of Section 16, Township 30, North, Range 12 East, described as follows: Commencing at a stone corner on the half line 17 chains and 42 links south of the northeast corner of the northwest quarter of said Section 16; thence running west from said beginning, 19 chains and 38 links to a stone in the Quarter Section line and which said stone is situated 17 chains and 50 links south of the north line of said Section 16, thence south on said Quarter Section line 7 chains and 73 links to a stone; thence east 19 chains and 47 links to a stone on the Half Section line of said Section 16; thence north along said Half Section line 7 chains and 73 links to the place of beginning, said parcel containing 15 acres of land EXCEPTING therefrom that part thereof conveyed by Deed recorded in Deed Record 331, pages 130-131 described as follows:

Commencing at the intersection of the south line of Rousseau's Garden Acre Addition Extended eastwardly to the east line of Garden Street in said Addition; thence east 20 feet on said south line extended of said Addition for the place of beginning, said point being 727.26 feet west from the north and south centerline of Section 16, said line being in Freemen Street, running thence south 510.18 feet to a point in the south line of said Schotemeyers' lands, said point being 724.74 feet west from the north and south center line of said Section 16, containing approximately 0.7 of an acre.

Also, EXCEPTING the legal right of way of Freeman Street over the easterly boundary.
Also, EXCEPTING that portion of land lying westerly of the tract described by the above referenced Deed Record 331, pages 130-131.
It is noted that the west 6 acres of the net 14.27 acres is waived of any area connection fees due . The east 8.27 acres will have area connection fees due as sewer connections are made.

4. CHARGE AGAINST EXCESS AREA

In an effort to induce the CITY to accept this Agreement and have the CITY waive DEVELOPER'S area connection fees noted in paragraph three, DEVELOPER expressly waives all rights to collect local connection fees for any and all excess adjacent benefitted area. By exercising this Agreement, the Board of Public Works expressly waives area connection fees of DEVELOPER, as described in Article 3.

5. BOND

This Contract is subject to DEVELOPER and/or his contractor furnishing a satisfactory 25% Maintenance Bond for the value of the sewer, said bond to serve as a guarantee of said sewer against defects for a period of one (1) year from the date of formal acceptance of said sewer by the CITY.

6. LIMITATION OF USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage to contaminated waste.

7. GOVERNING STATUTE (NOT APPLICABLE) E.N.E.

~~It is the intention of the parties hereto to utilize and take advantage of and apply to this agreement the provisions of Sections 16, 17, and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.C. 19-2-7-16, I.C. 19-2-7-17 and I.C. 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.~~

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of CITY, by duly adopted ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this Agreement shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and date first above written.

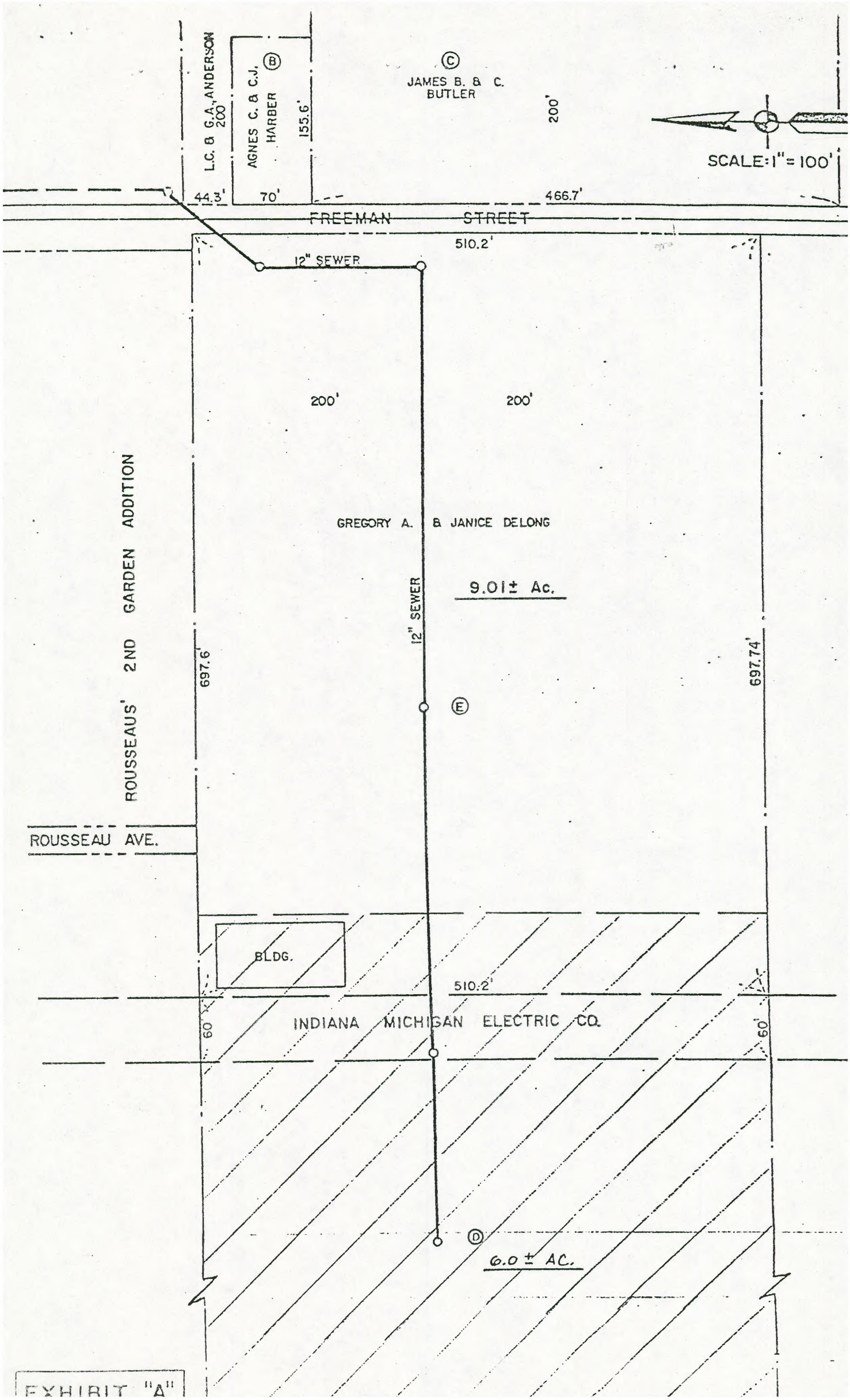
SHAR, INC.
(DEVELOPER)

11-28-83
Dated

BY: Gregory A. DeLong
GREGORY A. DELONG, PRESIDENT

ATTEST

BY: Janice E. DeLong
JANICE E. DELONG, SECRETARY


L.C. & G.A. ANDERSON
200'
AGNES C. & C.J. HARBER
B
155.6'
C
JAMES B. & C. BUTLER
200'
SCALE: 1" = 100'
44.3'
70'
466.7'
FREEMAN STREET
510.2'
12" SEWER
200'
200'
ROUSSEAUS' 2ND GARDEN ADDITION
GREGORY A. & JANICE DELONG
9.01± Ac.
12" SEWER
697.6'
697.74'
E
ROUSSEAU AVE.
BLDG.
510.2'
60'
INDIANA MICHIGAN ELECTRIC CO.
60'
D
6.0 ± AC.
EXHIBIT "A"

BILL NO. S-83-12-38

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving a Sewer Agreement between Shar, Inc. - Freeman Street Sanitary Sewer Agreement, and the City of Fort Wayne, Indiana, in connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

VICTURE L. SCRUGGS, CHAIRMAN — Victure Scruggs

SAMUEL J. TALARICO, VICE CHAIRMAN — Samuel J. Talarico

DONALD J. SCHMIDT — DJS

MARK E. GiaQUINTA — Mark E. GiaQuinta

PAUL M. BURNS

Enclosed
12-27-83

TITLE OF ORDINANCE Shar, Inc. - Freeman Street Sanitary Sewer Agreement

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE This is for an agreement between Shar, Inc., Developer, and the City of Fort Wayne for a sewer described as follows:

SANITARY SEWER

LATERAL #A

Beginning at an existing sanitary manhole located 60± L.F. East of and 20± L.F. North of the Southeast corner of Lot No. 17 of Rousseau's 2nd Garden Addn, thence Southwesterly 100± L.F. to a proposed manhole located 60± L.F. South of and 10± L.F. West of said Southeast corner of Lot No. 17 of Rousseau's 2nd Garden Addn., thence due South 210± L.F. to a proposed manhole located 10± L.F. west of the 210± L.F. south of said Southeast corner of Lot 17 of Rousseau's 2nd Garden Addition, thence due west 930± L.F. terminating at a proposed manhole.

PRIOR APPROVAL RECEIVED 12/6/83

EFFECT OF PASSAGE Improved sewer conditions at above location.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) ~~$36,000.00~~ - 50-50 Share bet. City & Developer - City Share not to exceed $18,000 paid by Economic Development Fund

ASSIGNED TO COMMITTEE

D-83-12-38